REMARKS

In the June 5, 2007 Office Action, the Examiner noted that claims 1-24 were pending in the application; rejected claims 1-24 under the second paragraph of 35 USC § 112; rejected claims 1 and 14 under 35 USC § 102(e); and rejected claims 2-13 and 15-24 under 35 USC § 103(a). In rejecting the claims, U.S. Patents 7,032,222 to Karp et al. and 5,748,892 to Richardson (References A and B, respectively) were cited. Claims 1-24 remain in the case. The rejections are traversed below.

Rejections under 35 USC § 112, Second Paragraph

In paragraph 3 on pages 2-3 of the Office Action, claims 1-24 were rejected under the second paragraph of 35 USC § 112 for indefiniteness. Claims 4, 6, 9, 17, 19 and 22 have been amended in response to the alleged indefiniteness identified in subitems (i), (iii) and (iv). If the amendments are not deemed sufficient, the Examiner is respectfully requested to contact the undersigned by telephone prior to issuing another Office Action, for the purpose of arranging an Interview during which further amendments can be discussed, so that the indefiniteness issues can be resolved prior to the next Office Action.

Subitem (ii) contains two questions in parentheticals and a statement. The answer to the first question, i.e., do the last two lines of claims 1 and 14 recite that the condition is met when "the number of resources in use is within a threshold" of a hard limit (a maximum number), the answer is "Yes." It appears that the Examiner understood the intended meaning of the claim and there should have been no rejection for indefiniteness (although as discussed below, the rejection of claims 1 and 14 as anticipated by step 106 in Fig. 2 of Karp et al. suggests that the Examiner ignored the meaning of these words, since there is no suggestion of anything happening prior to reaching the hard limit).

The second question in subitem (ii), i.e., why is does the word "first" occur prior to "predetermined", should have been answered by the recognition in subitem (i) that a "second predetermined amount" is recited in claim 9 which depends from claim 1. The alternative to reciting "first predetermined amount" in claim 1 is to have claim 9 recite that the "predetermined amount" recited in claim 1 is a "first predetermined amount" and that there is a "second predetermined amount" used for a different purpose. It is common practice in U.S. patent claims to simplify the language of the dependent claim by using the word "first" in a claim from which the dependent claim depends, even though the word "second" does not appear in the earlier claim.

It is not understood why the statement at the end of subitem (ii), "[i]t is ... unclear whether the maximum number corresponds to the total number of available resources in the system", was made. It is submitted that it is irrelevant whether the "maximum number of available resources" (e.g., claim 1, line 4) is a system limit or a limit applied by the "restricting" recited in claims 1 and 14 on "processing of resource acquisition requests" (e.g., claim 1, line 3). The claim is not made indefinite, merely broad by applying to any kind of maximum limit. For the above reasons, withdrawal of the § 112 rejection of claims 1 and 14 is respectfully requested.

Subitem (v) the question "why there would be more than one computer readable medium"? The answer is that claims 14-23 are directed to "at least one program embodying a method of processing of resource acquisition requests" (claim 14, lines 2-3) in a complex operating system environment in which "network resource acquisition requests [are] generated by at least one network filesystem for access to remote data via a network" (claim 15, last 2 lines). In such systems, it is common to store both data and programs across multiple storage devices. As a result, one operation of the method may be stored on one computer readable medium, while another is stored on a different medium. The use of "at least one computer readable medium" in the preamble allows for such circumstances, as well as situations where the "at least one program" is distributed to users as part of a multidisc package and portions of the method are stored on different discs.

If the above explanation of why no amendments were made in response to subitems (ii) and (v) does not result in withdrawal of the § 112 rejections of claims 1 and 14-24, the Examiner is respectfully requested to contact the undersigned by telephone prior to issuing another Office Action, for the purpose of arranging an Interview during which amendment of these claims can be discussed, so that the indefiniteness issues can be resolved prior to the next Office Action.

Rejections under 35 USC § 102(e)

In paragraphs 5-7 on pages 3-4 of the Office Action, claims 1 and 14 were rejected under 35 USC § 102(e) as anticipated by Karp et al., citing only "Fig 2, Step 106" of Karp et al. As noted above, block 106 in Fig. 2 of Karp et al. contains only the words "Hard Limit Exceeded?" Figure 2 of Karp et al. indicates that the method "Den[ies] the Request" in block 108 only when some hard limit is reached. However, as apparently recognized by the Examiner in the statements made in rejecting claims 1 and 14 under the second paragraph of 35 USC § 112, the recitation on the last two lines of claims 1 and 14 of "restricting processing of resource acquisition requests when a number of resources in use is within a first predetermined amount of a maximum number of available resources" requires that restriction occurs when "the number

of resources in use" is less than the hard limit, or in the Examiner's words, "within a threshold" of the hard limit. Nothing has been cited or found in Karp et al. that teaches or suggests any restriction that occurs prior to reaching the "hard limit" of block 106. Therefore, it is submitted that Karp et al. does not anticipate claims 1 and 14.

Rejections under 35 USC § 103(a)

In paragraphs 9-34 on pages 4-10 of the Office Action, claims 2-13 and 15-24 were rejected under 35 USC § 103(a) as unpatentable over Karp et al. in view of Richardson. In rejecting claim 3, column 3, lines 3-4 and 16-17 of Karp et al. were cited as allegedly disclosing a "soft limit" like that recited in the claims. However, the "soft limit" of Karp et al., as indicated by block 102 in Fig. 2, relates to a number of resources "to which each potential user has guaranteed access" (column 3, lines 18-19) and is not used in restricting access prior to reaching "a maximum number of available resources" (e.g., claim 1, last line).

Nothing has been cited or found in Richardson that suggests modification of Karp et al. to restrict processing prior to reaching a hard limit. Therefore, it is submitted that claims 1-24 patentably distinguish over Karp et al. in view of Richardson for at least the reasons discussed above with respect to claims 1 and 14.

Summary

It is submitted that the references cited by the Examiner, taken individually or in combination, do not teach or suggest the features of the present claimed invention which are recited in claims that meet the requirements of 35 USC § 112. Thus, it is submitted that claims 1-24 are in a condition suitable for allowance. Reconsideration of the claims and an early Notice of Allowance are earnestly solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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